# House File 226 - Introduced

HOUSE FILE 226 BY WOLFE

## A BILL FOR

- 1 An Act relating to the restoration of firearm rights for
- 2 persons convicted of certain felonies.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 1 Section 1. Section 724.26, subsection 1, Code 2021, is 2 amended to read as follows:
- 3 1. A Except as provided in section 724.26A, a person who
- 4 is convicted of a felony in a state or federal court, or who
- 5 is adjudicated delinquent on the basis of conduct that would
- 6 constitute a felony if committed by an adult, and who knowingly
- 7 has under the person's dominion and control or possession,
- 8 receives, or transports or causes to be transported a firearm
- 9 or offensive weapon is guilty of a class "D" felony.
- 10 Sec. 2. NEW SECTION. 724.26A Restoration of rights.
- 11 1. A person convicted of a class "D" felony, other than a
- 12 forcible felony or domestic abuse assault under section 708.2A,
- 13 subsection 5, may apply to the department of public safety for
- 14 the restoration of the right to possess, receive, or transport
- 15 or cause to be transported a firearm, if all of the following 16 apply:
- 17 a. Ten years have elapsed from the date of the applicant's
- 18 class "D" felony conviction.
- 19 b. The applicant has no pending criminal charges and no
- 20 felony convictions in the previous ten years.
- c. The applicant has not been convicted of a violation of
- 22 this chapter.
- 23 d. The applicant's class "D" felony conviction did not
- 24 involve the use or threatened use of a dangerous weapon.
- 25 e. The applicant would otherwise be eligible to possess,
- 26 receive, or transport or cause to be transported a firearm.
- 27 2. The department of public safety shall conduct a criminal
- 28 background check on the applicant including an inquiry of the
- 29 national instant criminal background check system maintained
- 30 by the federal bureau of investigation or any successor agency
- 31 to determine if ten years have elapsed from the date of the
- 32 applicant's class "D" felony conviction, the applicant has
- 33 no pending criminal charges and no felony convictions in the
- 34 previous ten years, the applicant has not been convicted
- 35 of a violation of this chapter, the applicant's class "D"

js/rh

- 1 conviction did not involve the use or threatened use of a
- 2 dangerous weapon, and the applicant would otherwise be eligible
- 3 to possess, receive, or transport or cause to be transported
- 4 a firearm.
- 5 3. a. If the application is approved by the department
- 6 of public safety, the department shall issue a certificate
- 7 of restoration of firearm rights to the applicant. The
- 8 certificate shall be proof that the firearm rights of the
- 9 applicant have been restored unless the rights are subsequently
- 10 taken away by a disqualifying event.
- 11 b. One copy of the certificate shall be delivered to the
- 12 applicant and one copy shall be delivered to the clerk of the
- 13 district court where the judgment of the class "D" felony is
- 14 of record.
- 15 c. If the department of public safety denies the
- 16 application, the department shall provide the applicant with
- 17 written notification of the denial and the reason for the
- 18 denial. An applicant may seek review of the denial pursuant to
- 19 subsection 4.
- 20 4. The applicant may file an appeal with an administrative
- 21 law judge by filing a copy of the denial with a written
- 22 statement that clearly states the applicant's reasons rebutting
- 23 the denial with a fee of ten dollars. Additional supporting
- 24 information relevant to the proceedings may also be included.
- 25 a. The administrative law judge shall, within forty-five
- 26 days of receipt of the applicant's request for an appeal, set
- 27 a hearing date. The hearing may be held by telephone or video
- 28 conference at the discretion of the administrative law judge.
- 29 The administrative law judge shall receive witness testimony
- 30 and other evidence relevant to the proceedings at the hearing.
- 31 The hearing shall be conducted pursuant to chapter 17A.
- 32 b. Upon conclusion of the hearing, the administrative
- 33 law judge shall order that the denial be either rescinded or
- 34 sustained. An applicant shall have the right to judicial
- 35 review in accordance with the terms of chapter 17A.

- 1 c. The standard of review under this section shall be clear
- 2 and convincing evidence that the department's written statement
- 3 of the reasons for the denial constituted probable cause to
- 4 deny the application.
- 5 5. An applicant may still make an application for
- 6 restoration of citizenship rights pursuant to sections 914.1
- 7 through 914.6.
- 8 6. The department of public safety shall adopt rules
- 9 pursuant to chapter 17A to administer this section.
- 10 Sec. 3. Section 914.7, Code 2021, is amended to read as
- 11 follows:
- 12 914.7 Rights not restorable.
- 13 1. Notwithstanding Except as provided in section 724.26A,
- 14 notwithstanding any other provision of this chapter, a person
- 15 who has been convicted of a forcible felony, a felony violation
- 16 of chapter 124 involving a firearm, or a felony violation of
- 17 chapter 724 shall not have the person's rights of citizenship
- 18 restored to the extent of allowing the person to receive,
- 19 transport, or possess firearms.
- Notwithstanding Except as provided in section 724.26A,
- 21 notwithstanding any provision of this chapter, a person
- 22 seventeen years of age or younger who commits a public offense
- 23 involving a firearm which is an aggravated misdemeanor against
- 24 a person or a felony shall not have the person's rights of
- 25 citizenship restored to the extent of allowing the person to
- 26 receive, transport, or possess firearms.
- 27 EXPLANATION
- The inclusion of this explanation does not constitute agreement with
- 29 the explanation's substance by the members of the general assembly.
- 30 This bill relates to the restoration of firearm rights for
- 31 persons convicted of certain felonies.
- 32 The bill allows a person convicted of a class "D" felony,
- 33 other than a forcible felony or domestic abuse assault under
- 34 Code section 708.2A(5), to apply to the department of public
- 35 safety for the restoration of the right to possess, receive,

- 1 or transport or cause to be transported a firearm, if all of
- 2 the following apply: 10 years have elapsed from the date of
- 3 the applicant's class "D" felony conviction, the applicant
- 4 has no pending criminal charges or felony convictions in the
- 5 previous 10 years, the applicant has not been convicted of a
- 6 violation of Code chapter 724 (weapons), the applicant's class
- 7 "D" conviction did not involve the use or threatened use of a
- 8 dangerous weapon, and the applicant would otherwise be eligible
- 9 to possess, receive, or transport or cause to be transported
- 10 a firearm.
- 11 The bill requires the department of public safety to conduct
- 12 a criminal background check on the applicant including an
- 13 inquiry of the national instant criminal background check
- 14 system maintained by the federal bureau of investigation or
- 15 any successor agency to determine if the application meets the
- 16 requirements for restoration of firearm rights established in
- 17 the bill.
- 18 If the application is approved by the department of public
- 19 safety, the bill requires the department of public safety to
- 20 issue a certificate of restoration of firearm rights to the
- 21 applicant. The bill specifies the certificate shall be proof
- 22 the firearm rights of the applicant have been restored unless
- 23 the rights are subsequently taken away by a disqualifying
- 24 event.
- 25 The bill requires one copy of the certificate be delivered to
- 26 the applicant and one copy shall be delivered to the clerk of
- 27 the district court where the judgment of the class "D" felony
- 28 is of record.
- 29 If the department of public safety denies the application
- 30 under the bill, the department shall provide the applicant
- 31 with written notification of the denial and the reason for the
- 32 denial. The bill permits an applicant to seek review of the
- 33 denial.
- 34 If the applicant appeals the denial of the application
- 35 of the department of public safety, the bill requires the

- 1 administrative law judge to set a hearing date within 45 days
- 2 of receipt of the request for an appeal. The hearing may be
- 3 held by telephone or video conference at the discretion of the
- 4 administrative law judge. The administrative law judge shall
- 5 receive witness testimony and other evidence relevant to the
- 6 proceedings at the hearing. The hearing shall be conducted
- 7 pursuant to Code chapter 17A.
- 8 The bill does not prohibit an applicant from making an
- 9 application for restoration of citizenship rights pursuant to
- 10 Code sections 914.1 through 914.6.
- 11 The bill also makes conforming changes to Code sections
- 12 724.26 (possession, receipt, transportation, or dominion and

-5-

- 13 control of firearms, offensive weapons, and ammunition by
- 14 felons and others) and 914.7 (rights not restorable).